

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DUANE ANDREW FUOSS	:	
116 N. Diamond St	:	CIVIL ACTION
Mount Pleasant, PA 15666	:	
	:	
v.	:	NO. 2:22-cv-723
	:	
UNITED STATES OF AMERICA	:	
c/o Attorney General of the United States	:	
U.S. Department of Justice	:	
950 Pennsylvania Avenue, NW	:	
Washington, DC 20530-0001	:	
and	:	
UNITED STATES POSTAL SERVICE	:	
c/o Chief Counsel, Torts	:	
General Law Service Center	:	
USPS National Tort Center	:	
1720 Market Street, Room 2400	:	
St. Louis, MO 63155-9948	:	
and	:	
CHRISTOPHER W. SHULTZ	:	
220 W. Pennsville Street	:	
Connellsville, PA 15425	:	

COMPLAINT

PARTIES

1. Plaintiff Duane Andrew Fuoss is an adult individual residing at 116 N. Diamond Street, Mount Pleasant, PA 15666.

2. Defendant United States of America (hereinafter “USA”) is a governmental entity to be served at 950 Pennsylvania Avenue NW, Washington, DC 20530-0001.

3. Defendant United States Postal Service (hereinafter “USPS”) is a governmental entity located at 1720 Market Street, Room 2400, St. Louis, MO 63155-9948.

4. Defendant Christopher W. Schultz is an adult individual residing at 220 W. Pennsville Street, Connellsville, PA 15425.

JURISDICTION AND VENUE

5. This Court has original jurisdiction over this action pursuant to the Federal Tort Claims Act, 28 U.S.C. §2671.

6. On November 1, 2018, Plaintiff submitted an Administrative Claim for the claim set forth below to the National Tort Claims Center, United States Postal Service.

7. More than six months have elapsed since the submission of the Administrative Claim and all conditions precedent to a Federal Tort Claims Act have been met.

8. Venue is proper in this district because the incident occurred in the Western District of Pennsylvania.

FACTUAL ALLEGATIONS

9. On September 15, 2018, Plaintiff Duane Andrew Fuoss was operating his 2009 Chevrolet Cobalt on Main Street near its intersection with Kennedy Avenue in Westmoreland County/Mount Pleasant Borough, Pennsylvania.

10. On the date and place aforesaid, Defendant Christopher Schultz was operating a United States Postal Service truck in the course and scope of his employment with the United States of America and/or the United States Postal Service, on Kennedy Avenue near its intersection with Main Street in Westmoreland County/Mount Pleasant Borough, Pennsylvania..

11. On the date and place aforesaid, Defendant Christopher Schultz disregarded a stop sign at the corner of Kennedy Avenue and Main Street and slammed violently into the vehicle being operated by Plaintiff Duane Andrew Fuoss.

12. As a result of the accident, Plaintiff suffered the serious injuries and damages set forth below.

13. The incident was caused solely due to the negligence and carelessness of Defendants and was due in no part to any act or failure to act on the part of Plaintiff Duane Andrew Fuoss.

COUNT I
PLAINTIFF DUANE ANDREW FUOSS V. DEFENDANT UNITED STATES OF AMERICA

14. Plaintiff incorporates herein by reference each and every averment contained in paragraphs 1 through 13 as though the same were set forth fully herein at length.

15. At all relevant times, Defendant Christopher Schultz was acting in the course of his employment and/or agency relationship with Defendant United States of America and accordingly, Defendant United States of America is liable for his conduct.

16. Defendant United States of America was careless and negligent in:

- a. Disregarding a stop sign;
- b. Driving while on the phone;
- c. Driving while distracted;
- d. Failing to properly pay attention to traffic conditions;
- e. Failing to stop its vehicle in time to avoid the collision;
- f. Failing to take evasive maneuvers to prevent the collision;
- g. Being inattentive and otherwise distracted from the task at hand;
- h. Failing to properly maintain the USPS truck;
- i. Failing to keep the USPS truck in proper and working condition;
- j. Failing to properly control and direct its agent, Christopher Schultz;
- k. Entrusting its vehicle to Defendant Christopher Schultz;
- l. Entrusting its vehicle to a person who was not in proper condition to drive;

- m. Failing to properly supervise Defendant Christopher Schultz; and
- n. Failing to abide by the statutes of the United States of America, Commonwealth of Pennsylvania, and other governmental entities.

17. As a direct result of the negligence of Defendant, Plaintiff Duane Andrew Fuoss suffered injuries including but not limited to: head injury; lumbar disc injury; lumbar radiculopathy; lumbar sprain and strain; aggravation of prior lumbar spine condition; right foot drop; hip injury; cervical disc injury; cervical radiculopathy; segmental dysfunction of the cervical spine; cervical sprain and strain; shoulder injury; and other injuries, any and all of which are permanent.

18. As a result of Defendant's negligence and carelessness, Plaintiff suffered a serious impairment of one or more bodily functions.

19. As a direct result of Defendant's negligence and carelessness, Plaintiff has in the past, is presently, and will in the future be caused to suffer physical and emotional pain and suffering.

20. As a result of Defendant's negligence and carelessness, Plaintiff has in the past, is presently, and will in the future be caused to suffer embarrassment, anxiety, depression, loss of life's pleasures, and loss of the ability to enjoy life.

21. As a result of Defendant's negligence and carelessness, Plaintiff has in the past, is presently, and will in the future be caused to expend sums of money for medical care, treatment and rehabilitation.

22. As a result of Defendant's negligence and carelessness, Plaintiff has in the past, is presently, and will in the future be caused to suffer economic loss as well as loss of earnings and loss of earning capacity.

23. As a result of Defendant's negligence and carelessness, Plaintiff has suffered scarring and disfigurement.

24. As a result of Defendant's negligence and carelessness, Plaintiff has been prevented and will be prevented in the future from performing his usual duties, occupations, and activities, all to his great loss and detriment.

WHEREFORE, Plaintiff Duane Andrew Fuoss respectfully requests that Defendant United States of America be found liable in an amount in excess of \$150,000 together with costs and other such relief as the Court deems appropriate.

COUNT II
PLAINTIFF DUANE ANDREW FUOSS V. DEFENDANT UNITED STATES
POSTAL SERVICE

25. Plaintiff incorporates herein by reference each and every averment contained in paragraphs 1 through 24 as though the same were set forth fully herein at length.

26. At all relevant times, Defendant Christopher Schultz was acting in the course of his employment and/or agency relationship with Defendant United States Postal Service and accordingly, Defendant United States Postal Service is liable for his conduct.

27. Defendant United States Postal Service was careless and negligent in:

- a. Disregarding a stop sign;
- b. Driving while on the phone;
- c. Driving while distracted;
- d. Failing to properly pay attention to traffic conditions;
- e. Failing to stop its vehicle in time to avoid the collision;
- f. Failing to take evasive maneuvers to prevent the collision;
- g. Being inattentive an otherwise distracted from the task at hand;

- h. Failing to properly maintain the USPS truck;
- i. Failing to keep the USPS truck in proper and working condition;
- j. Failing to properly control and direct its agent, Christopher Schultz;
- k. Entrusting its vehicle to Defendant Christopher Schultz;
- l. Entrusting its vehicle to a person who was not in proper condition to drive;
- m. Failing to properly supervise Defendant Christopher Schultz; and
- n. Failing to abide by the statutes of the United States of America, Commonwealth of Pennsylvania, and other governmental entities.

28. As a result of the conduct of Defendant, Plaintiff suffered the injuries and damages set forth above and incorporated by reference.

WHEREFORE, Plaintiff Duane Andrew Fuoss respectfully requests that Defendant United States Postal Service be found liable in an amount in excess of \$150,000 together with costs and other such relief as the Court deems appropriate.

COUNT III
PLAINTIFF DUANE ANDREW FUOSS V. DEFENDANT CHRISTOPHER
SCHULTZ

29. Plaintiff incorporates herein by reference each and every averment contained in paragraphs 1 through 28 as though the same were set forth fully herein at length.

30. Defendant Christopher Schultz was careless and negligent in:

- a. Disregarding a stop sign;
- b. Driving while on the phone;
- c. Driving while distracted;
- d. Failing to properly pay attention to traffic conditions;
- e. Failing to stop its vehicle in time to avoid the collision;
- f. Failing to take evasive maneuvers to prevent the collision;

- g. Being inattentive an otherwise distracted from the task at hand;
- h. Failing to properly maintain the USPS truck;
- i. Failing to keep the USPS truck in proper and working condition; and
- j. Failing to abide by the statutes of the United States of America, Commonwealth of Pennsylvania, and other governmental entities.

31. As a result of the conduct of Defendant, Plaintiff suffered the injuries and damages set forth above and incorporated by reference.

WHEREFORE, Plaintiff Duane Andrew Fuoss respectfully requests that Defendant Christopher Schultz be found liable in an amount in excess of \$150,000 together with costs and other such relief as the Court deems appropriate.

LOWENTHAL & ABRAMS, PC

BY: /s/ Gary Solomon
GARY SOLOMON, ESQUIRE